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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,802	09/30/2003	Melissa Ann Clark	030627/263750	2236
826	7590	10/10/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			MAYES, DIONNE WALLS	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/675,802

Applicant(s)

CLARK ET AL.

Examiner

Dionne Walls Mayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-25 is/are allowed.
- 6) ☒ Claim(s) 26-28 and 32-38 is/are rejected.
- 7) ☒ Claim(s) 29-31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. Claims 26-28, and 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xue et al (US. Pat. No. 6,584,979) in view of Mentzel et al (US. Pat. No. 5,423,336).

Xue et al discloses nearly all that is recited in the claims since it teaches a cigarette 10 with a tobacco rod 18 and a multi-sectional filter having a 1<sup>st</sup> filter section 16 comprised of filter fiber material (corresponding to the claimed "first...section of filter material"); a 2<sup>nd</sup> filter section 12 comprised of filter fiber material (corresponding to the claimed "second...section of filter material"); and a compartment between the two filter sections containing particulate adsorbent material 23, such as activated carbon. Xue et al states that the 1<sup>st</sup> filter section can be made of cellulose acetate or any other suitable material, and such can be the same material or different material from the 2<sup>nd</sup> filter section (see entire document). While Xue et al may not specifically state that the 1<sup>st</sup> filter section has a greater particulate removal efficiency than the 2<sup>nd</sup> filter section, Xue et al does disclose, in one example, a 1<sup>st</sup> filter section 16 (an upstream filter, described as P4) being 4mm, and a 2<sup>nd</sup> filter section 12 (a downstream filter, described as P3) being 18mm (see col. 8, lines 3-4). Assuming that both P3 and P4 are comprised of the same cellulose acetate tow material, it follows that the filter P4 (the 1<sup>st</sup> filter section) would obviously have the greater particulate removal efficiency since it is longer and, thus, better able to remove more particulate matter due to its size. While Xue et al may not specifically disclose a plurality of ventilation holes for introducing air into the filter

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element located between the end of the filter element proximal to the tobacco rod and the mid-point of the adsorbent-containing portion of the compartment - which provides the claimed volumetric air dilution of mainstream smoke - this would have been an obvious modification to the filter of Xue et al since placement of ventilation holes at this location is known – as evidenced by the Mentzel et al reference (see element 5 in Figures).

***Allowable Subject Matter***

2. Claims 1-25 are allowed.
3. Claims 29-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

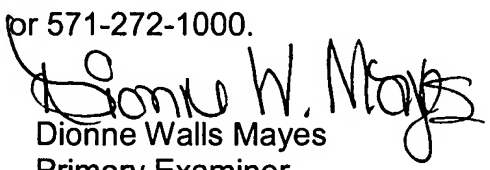
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Walls Mayes whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dionne Walls Mayes  
Primary Examiner  
Art Unit 1731

September 30, 2006